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**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

FIRST AMERICAN TITLE)	Case No. 08-5484-JF
COMPANY, a California Corporation)	
)	
Plaintiff,)	STIPULATION TO DISMISS
)	
v.)	
)	
MID-COAST REALTY, et al.,)	
)	
Defendants.)	

The parties stipulate as follows:

1. This is an interpleader action to determine the parties rights and interest to certain proceeds. At the time of removal, the United States had an interest in the proceeds related to certain tax debts of one of the parties. Consequently, the United States removed this action from state court pending a determination related to the government's interests in proceeds from the sale of certain property.

2. Prior to the filing of the United States' petitions for removal, this action had previously been removed to federal bankruptcy court in San Jose, in the case styled as *In re Bardis*, Case Number 08-34878 and adversary case number 08-5322. In that regard, the claims are identical in both actions and the duplicate removal by the United States was unintended. Counsel for the United States was not aware of the bankruptcy case (and prior removal) before filing the second petition for removal.

Stipulation
Case No. 08-5484-JF

3. During the pendency of this action, the United States's interests in the inter-plead proceeds have been reduced to zero because of an offsetting loss for a different year. Thus, the United States no longer has any interest in the funds at issue and has disclaimed its interest.

4. In addition, the remaining parties claims will be litigated in the bankruptcy action, which has the identical parties, legal issues, and is in fact the same case removed to the bankruptcy court.

5. For that reason, the parties agree this action should be dismissed as the issues, claims, and rights of the parties will be decided in the previously-removed bankruptcy case.

6. As part of this stipulation, the United States will serve a copy of this stipulation, and the endorsed order should this be approved to each of the parties in the bankruptcy case.

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney

Date: 4/8/2009

/s/ Thomas M. Newman
THOMAS M. NEWMAN
Assistant United States Attorney
Tax Division

Approved as to form and content:

LAW OFFICES OF BRET R. ROSSI

Date:4/8/2009

/s/Bret Rossi
By BRET R. ROSSI, ESQ.
Attorney for Frank G. Stathos

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8 **IN THE UNITED STATES DISTRICT COURT FOR THE**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 **FIRST AMERICAN TITLE**
12 **COMPANY, a California Corporation**

13 **Plaintiff,**

14 **v.**

15 **MID-COAST REALTY, et al.,**

16 **Defendants.**

Case No. 08-5484-JF

[PROPOSED] ORDER

17
18 In accordance with the parties' stipulation, this case is dismissed without prejudice.
19 Defendant, the United States of America, is directed to serve a copy of this Order on each party
20 that has not entered an appearance.

21 **IT IS SO ORDERED.**

22 Dated: 4/10 __, 2009

23 
24 JEREMY FOGEL
25 United States District Court Judge
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